

REMARKS

Claims 1-9 are now pending in the application. Claims 1-9 have been finally rejected. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

SPECIFICATION

The amendment to the specification filed on July 1, 2008 is objected to under 35 USC §132(a) for introducing new matter into the disclosure of the invention. The added material which is deemed to be unsupported by the original disclosure is "the frame 122 may be laminated between the first sheet 66 and the second sheet 76." This objection is respectfully traversed.

The Code of Federal Regulations states that a specification includes "a claim or claims." See 37 CFR §1.77(b)(10). Therefore, the originally filed claims are a part of the original disclosure and do not constitute new matter when incorporated into the detailed description of the invention. The language under objection was taken directly from originally filed Claim 49, which recites in part:

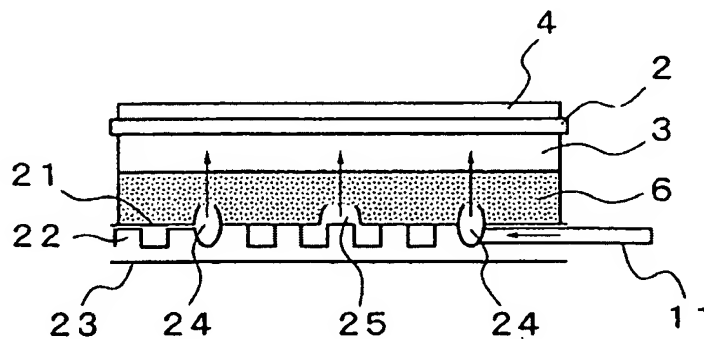
...laminating a frame in between said first film sheet and
said second film sheet...

Accordingly, in view of at least the above discussion, Applicants respectfully submit that the amendment to the specification incorporated matter that is supported by the original disclosure, and thus, Applicants respectfully request the Office to reconsider and withdraw the objection to the specification under 35 U.S.C. § 132(a).

PRIOR ART REJECTIONS

Claims 1-3 and 5-9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Komada *et al.* (U.S. Pat. No. 7,201,991, hereinafter "Komada"). Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Komada in view of Bronoel *et al.* (U.S. Pub. No. 2001/0006745, hereinafter "Bronoel"). These rejections are respectfully traversed.

In rejecting Claim 1, the Examiner characterizes Komada as disclosing a fuel cell in which the "region between plate 21 and the electrode 3" defines a first planar manifold, "the openings 24 and 25" in plate 21 define a plurality of spacers, and "the region between plates 21 and 22" define a second planar manifold. See Office Action dated October 8, 2008, pp. 2-3. As can be seen in Figure 3 of Komada reproduced below, gas passing through openings 24, 25 in plate 21 diffuses through the current collector 6 over the entire area of the electrode layer 3. See Komada, col. 9, lines 28-44. In other words, the flow path described by Komada passes from the region identified as the second planar manifold into the region identified as the first planar manifold by the Examiner prior to reaching the active element, and therefore defines only the inlet side of the fuel cell.



The Examiner's analysis fails to consider the flow path defined by this claimed structure, and the spacers' function of directing flow from the second planar manifold across the active element before it passes into the first planar manifold. Specifically, Applicants' Claim 1 recites in part:

...wherein a flow path is established from said second planar manifold through said orifice **over said active element to said first planar manifold.**

As claimed, the second planar manifold defines the inlet side of the fuel cell and the first planar manifold defines the exhaust side of the fuel cell. Changing the order of the first planar manifold and the active element still causes the analogy to fail, as the first planar manifold is claimed as lying between the first gas impermeable element and the active element. When these differences are understood, it is clear that the fuel cell recited in Claim 1 is structurally and functionally different from the fuel cell described in Komada. The teachings of the other art of record including Bronoel fail to provide any teachings which remedy these deficiencies of Komada.


Applicants respectfully submit that Claim 1 is in condition for allowance as Komada does not teach, suggest or disclose each and every element of Claim 1. Claims 2-9 depend from Claim 1 and should likewise be in condition for allowance. Accordingly, in view of at least the above discussion, Applicants respectfully request the Office to reconsider and withdraw the rejections of Claim 1-9 under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a).

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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